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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

TERRENCE ZEHRER, Derivatively on Behalf of)
APPLE INC.,)

Plaintiff,

v.

TIMOTHY D. COOK, LUCA MAESTRI,
CRAIG FEDERIGHI, ARTHUR D.
LEVINSON, ALBERT GORE, JR.,
ANDREA JUNG, JAMES A. BELL,
RONALD D. SUGAR, ROBERT A. IGER,
and SUSAN L. WAGNER,

Defendants,

-and-

APPLE INC., a California corporation,

Nominal Defendant.

Case No. 4:19-cv-05153-YGR
ORDER GRANTING
STIPULATION AND ~~PROPOSED~~
ORDER TO CONSOLIDATE AND STAY
RELATED ACTIONS AND SETTING
SCHEDULE ON MOTIONS FOR
LEADERSHIP

Judge: Yvonne Gonzalez Rogers
Date Action Filed: August 19, 2019

* as modified by the Court *

[Caption continued on next page.]

ANDREW FINE, TAMMY FEDERMAN
SEP/IRA, and THE ROSENFELD FAMILY
FOUNDATION, Derivatively on Behalf of APPLE
INC.,

Plaintiff,

v.

TIMOTHY D. COOK, LUCA MAESTRI, CRAIG
FEDERIGHI, ARTHUR D. LEVINSON, ALBERT
GORE, JR., ANDREA JUNG, JAMES A. BELL,
RONALD D. SUGAR, ROBERT A. IGER, and
SUSAN L. WAGNER,

Defendants,

-and-

APPLE INC., a California corporation,

Nominal Defendant.

Case No. 4:19-cv-05863-YGR

Judge: Yvonne Gonzalez Rogers

Date Action Filed: September 20, 2019

[Caption continued on next page.]

ALAN BANKHALTER, Derivatively on Behalf of)
APPLE INC.,)

Plaintiff,)

v.)

TIMOTHY D. COOK, LUCA MAESTRI,)
CRAIG FEDERIGHI, ARTHUR D.)
LEVINSON, ALBERT GORE, JR.,)
ANDREA JUNG, JAMES A. BELL,)
RONALD D. SUGAR, ROBERT A. IGER,)
AND SUSAN L. WAGNER,)

Defendants,)

-and-)

APPLE INC., a California corporation,)

Nominal Defendant.)

Case No. 4:19-cv-05881-YGR

Judge: Yvonne Gonzalez Rogers

Date Action Filed: September 20, 2019

[Caption continued on next page.]

1 JOHN VOTTO, Derivatively on Behalf of APPLE)
INC.,)

2)
3 Plaintiff,)

4 v.)

5 TIMOTHY D. COOK, ARTHUR D.)
LEVINSON, JAMES A. BELL, ALBERT)
6 GORE, JR., ANDREA JUNG, RONALD D.)
SUGAR, SUSAN L. WAGNER, ROBERT)
A. IGER, and LUCA MAESTRI,)

7 Defendants,)

8 -and-)

9 APPLE INC.,)

10 Nominal Defendant.)
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Case No. 4:19-cv-08246-YGR

Judge: Yvonne Gonzalez Rogers

Date Action Filed: December 18, 2019

Plaintiffs Terrence Zehrer (“Zehrer”), Andrew Fine, Tammy Federman SEP/IRA, The Rosenfeld Family Foundation, Alan Bankhalter (“Bankhalter”), and John Votto (“Votto”) (collectively “Plaintiffs”), and nominal defendant Apple Inc. (“Apple”), by and through their undersigned counsel, stipulate as follows:

WHEREAS, the following four stockholder derivative actions now pending in this Court (the “Related Actions”) allege, *inter alia*, breaches of fiduciary duty by certain officers and directors of Apple arising out of the same nexus of facts:

<u>Case Name</u>	<u>Case No.</u>	<u>Filing Date</u>
<i>Zehrer v. Cook, et al.</i> (the “Zehrer Action”)	4:19-cv-05153-YGR	August 19, 2019
<i>Fine, et al. v. Cook, et al.</i> (the “Fine Action”)	4:19-cv-05863-YGR	September 20, 2019
<i>Bankhalter v. Cook, et al.</i> (the “Bankhalter Action”)	4:19-cv-05881-YGR	September 20, 2019
<i>Votto v. Cook, et al.</i> (the “Votto Action”)	4:19-cv-08246-YGR	December 18, 2019

WHEREAS Rule 42(a) of the Federal Rules of Civil Procedure (“Rule 42(a)”) provides that when actions involve “a common question of law or fact,” the Court may “(1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay”;

WHEREAS the parties agree that the Related Actions arise out of the same factual circumstances and challenge similar alleged misconduct by certain of Apple's directors and executive officers, and involve common questions of law and fact;

WHEREAS the parties agree, therefore, that the Related Actions should be related and consolidated for all purposes, including pre-trial proceedings and trial, into a single consolidated action (hereinafter referred to as the “Consolidated Derivative Action”), in order to avoid duplication of effort and potentially conflicting results, and to conserve party and judicial resources;

WHEREAS Plaintiffs maintain that the Consolidated Derivative Action has merit independent of and is not dependent on the ultimate outcome of the putative federal securities class action pending in the United States District Court for the Northern District of California captioned, *In re Apple Inc. Securities Litigation*, Case No. 4:19-cv-02033-YGR (the “Federal Securities Action”);

1 WHEREAS the parties nonetheless agree that a decision on the pending motion to dismiss the
2 Federal Securities Action could have important implications for the efficient prosecution of the Consolidated
3 Derivative Action; and

4 WHEREAS the Court has previously entered orders, pursuant to stipulations submitted by the
5 parties, temporarily staying each of the Related Actions pending further developments in the Federal
6 Securities Action; and

7 WHEREAS the previously-ordered temporary stays are scheduled to expire on March 11, 2020 (in
8 the *Votto* Action and *Fine* Action), March 12, 2020 (in the *Zehrer* Action), and April 4, 2020 (in the
9 *Bankhalter* Action);

10 WHEREAS the parties agree that it would serve the interests of judicial economy and conserve party
11 resources to continue the current stay of proceedings and stay the Consolidated Derivative Action until a date
12 45 days after the Court issues a written decision on the pending motion to dismiss in the Federal Securities
13 Action;

14 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the parties, through their
15 respective counsel of record, as follows:

16 1. Undersigned counsel for Apple has agreed to accept service and waive service of the
17 summons on behalf of any Defendants not already served.

18 2. The Related Actions are hereby consolidated for all purposes, including pre-trial proceedings
19 and trial.

20 3. Every pleading filed in the Consolidated Derivative Action, or in any separate action included
21 herein, shall bear the following caption:

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE APPLE INC. STOCKHOLDER
DERIVATIVE LITIGATION

) Lead Case No. 4:19-cv-05153-YGR
)
) (Consolidated with Cases No. 4:19-cv-05863-
) YGR, 4:19-cv-05881-YGR, and 4:19-cv-
) 08246-YGR)

This Document Relates To:

ALL ACTIONS.

4. The files of the Consolidated Action shall be maintained in one file under Master File No. 4:19-cv-05153-YGR.

5. This Order shall apply to each purported derivative action arising out of the same or substantially the same transactions or events as the Related Actions that is subsequently filed in, removed to, or transferred to this Court.

6. When a case which properly belongs as part of *In re Apple Inc. Stockholder Derivative Litigation*, Lead Case No. 4:19-cv-05153-YGR, is hereafter filed in, remanded to, or transferred to this Court, counsel for the parties shall call such filing, remand, or transfer to the attention of the Clerk of the Court for purposes of moving the Court for an order consolidating such case(s) with *In re Apple Inc. Stockholder Derivative Litigation*, Lead Case No. 4:19-cv-05153-YGR.

7. Except as specifically set forth herein, all proceedings in the Consolidated Derivative Action, including any obligation to respond to the complaints in any of the Related Actions, are hereby stayed until a date 45 days after the Court issues a written decision on the pending motion to dismiss in the Federal Securities Action.

8. Any party may lift the stay by providing thirty (30) days' written notice to all counsel of record via e-mail that they no longer consent to the voluntary stay of this Action.

9. Within thirty (30) days of the expiration or lifting of the stay pursuant to paragraphs 7 or 8 hereof, the parties will meet and confer to agree upon a schedule for proceedings in the Action and file a stipulation regarding the same with the Court.

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10. The composition of Apple's Board of Directors that will be considered in connection with determining whether Plaintiffs' complaint, amended or otherwise, has adequately pled that a pre-litigation demand on the Company's Board of Directors would have been futile shall be the composition of the Board of Directors as of August 19, 2019, the date the earliest of the Related Actions was initiated.

11. On or before April 14, 2020, Plaintiffs shall file either a stipulation concerning the appointment of lead or co-lead counsel for plaintiffs or, if necessary, competing motions for the appointment of lead or co-lead counsel for plaintiffs. In the event motions are filed, responsive briefs shall be filed on or before May 5, 2020, and any replies shall be filed on or before May 19, 2020.

12. Following the appointment of lead or co-lead counsel for plaintiffs, such lead or co-lead counsel may file a consolidated complaint. The filing of a consolidated complaint shall not affect the pendency of the stay of proceedings. Defendants shall not be required to move, answer, plead, or otherwise respond to any consolidated complaint during the pendency of the stay of proceedings.

13. This stay shall not preclude Plaintiffs from pursuing, during the course of the stay, any rights Plaintiffs may have individually or collectively to inspect the Company's books and records pursuant to California Corporations Code section 1601 ("Section 1601"), nor shall it impact Apple's rights or defenses in response to any demand pursuant to Section 1601.

14. By entering into this stipulation, the Parties do not waive any rights or defenses not specifically addressed herein.

15. Pursuant to Fed. R. Civ. P. 5(b)(2)(E), the parties agree that service by e-mail transmission shall be permitted in addition to service via ECF notification.

16. The Compliance Hearings set for March 13, 2020 in the *Zehrer* Action and *Bankhalter* Action are vacated.

IT IS SO STIPULATED.

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1 Dated: March 6, 2020

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12 Dated: March 6, 2020

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1 Dated: March 6, 2020

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14 Dated: March 6, 2020

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1 Dated: March 6, 2020

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10 *Counsel for Nominal Defendant Apple Inc.*

11
12 I, Alexander K. Talarides, am the ECF User whose ID and password are being used to file this
13 Stipulation and [Proposed] Order to Consolidate and Stay Related Actions and Setting Schedule on Motions
14 for Leadership. In compliance with Civil L.R. 5-1(i), I hereby attest that concurrence in the filing of this
15 document has been obtained from each of the other signatories.

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17 /s/ Alexander K. Talarides
ALEXANDER K. TALARIDES

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21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.** The Clerk shall administratively
22 close Case Numbers 19-cv-5863, 19-cv-5881, and 19-cv-8246.

23 DATED: March 11, 2020

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HONORABLE YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE